

Chapter 3 Municipal Government

Part 2 Election of Governing Body

10-3-201 Municipal general election -- Terms of office.

- (1) Consistent with Section 20A-1-202, on the Tuesday after the first Monday in November in odd-numbered years, a municipal general election shall be held in all municipalities to fill all elective offices vacated by 12 o'clock noon on the first Monday in the January following the election. The officers elected shall continue in the office to which they were elected for four years except in case of death, resignation, removal or disqualification from office.
- (2) The officers so elected shall begin their term of office at 12 o'clock noon on the first Monday in January following their election.

Amended by Chapter 256, 2007 General Session

10-3-202 Terms of elected municipal officers.

Each elected officer of a municipality shall hold office for the term for which he is elected and until his successor is chosen and qualified, unless the office becomes vacant under Section 10-3-301.

Amended by Chapter 32, 1990 General Session

10-3-205 Election of officers in municipalities operating under a city council form of government.

In each municipality operating under a five-member or six-member city council form of government, the election and terms of office shall be as follows:

- (1) The offices of mayor and approximately half the council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.
- (2) The offices of the remaining council members shall be filled in a municipal election held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

Amended by Chapter 202, 2004 General Session

10-3-205.5 At-large election of officers -- Election of commissioners or council members.

- (1) Except as provided in Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.
- (2)
 - (a) The governing body of a city may by ordinance provide for the election of some or all commissioners or council members, as the case may be, by district equal in number to the number of commissioners or council members elected by district.
 - (b)
 - (i) Each district shall be of substantially equal population as the other districts.

- (ii) Within six months after the Legislature completes its redistricting process, the governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make any adjustments in the boundaries of the districts as may be required to maintain districts of substantially equal population.
- (3)
 - (a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:
 - (i) for a metro township with a population of 10,000 or more, by district in accordance with Subsection 10-2a-410(1)(a); or
 - (ii) for a metro township with a population of less than 10,000, at-large in accordance with Subsection 10-2a-410(1)(b).
 - (b) The council districts in a metro township with a population of 10,000 or more shall comply with the requirements of Subsections (2)(b)(i) and (ii).
- (4)
 - (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:
 - (i) the council members are elected by district in accordance with Section 10-2a-410; and
 - (ii) the mayor is elected at-large in accordance with Section 10-2a-410.
 - (b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).

Amended by Chapter 14, 2016 General Session

10-3-208 Campaign finance disclosure in municipal election.

- (1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:
 - (a) "Agent of a candidate" means:
 - (i) a person acting on behalf of a candidate at the direction of the reporting entity;
 - (ii) a person employed by a candidate in the candidate's capacity as a candidate;
 - (iii) the personal campaign committee of a candidate;
 - (iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or
 - (v) a political consultant of a candidate.
 - (b) "Anonymous contribution limit" means for each calendar year:
 - (i) \$50; or
 - (ii) an amount less than \$50 that is specified in an ordinance of the municipality.
 - (c)
 - (i) "Candidate" means a person who:
 - (A) files a declaration of candidacy for municipal office; or
 - (B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.
 - (ii) "Candidate" does not mean a person who files for the office of judge.
 - (d)
 - (i) "Contribution" means any of the following when done for political purposes:
 - (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

- (B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;
 - (C) any transfer of funds from another reporting entity to the candidate;
 - (D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;
 - (E) a loan made by a candidate deposited to the candidate's own campaign; and
 - (F) an in-kind contribution.
- (ii) "Contribution" does not include:
- (A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;
 - (B) money lent to the candidate by a financial institution in the ordinary course of business; or
 - (C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.
- (e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:
- (i) with the candidate's prior knowledge, if the candidate does not object;
 - (ii) by agreement with the candidate;
 - (iii) in coordination with the candidate; or
 - (iv) using official logos, slogans, and similar elements belonging to a candidate.
- (f)
- (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:
- (A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);
 - (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
 - (C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;
 - (D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;
 - (E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or
 - (F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.
- (ii) "Expenditure" does not include:
- (A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or
 - (B) money lent to a candidate by a financial institution in the ordinary course of business.
- (g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.
- (h)
- (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

- (ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:
 - (A) has already been paid, with money or other consideration;
 - (B) expects to be paid in the future, with money or other consideration; or
 - (C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.
 - (i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.
 - (j) "Reporting entity" means:
 - (i) a candidate;
 - (ii) a committee appointed by a candidate to act for the candidate;
 - (iii) a person who holds an elected municipal office;
 - (iv) a party committee as defined in Section 20A-11-101;
 - (v) a political action committee as defined in Section 20A-11-101;
 - (vi) a political issues committee as defined in Section 20A-11-101;
 - (vii) a corporation as defined in Section 20A-11-101; or
 - (viii) a labor organization as defined in Section 20A-11-1501.
- (2)
 - (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) and (4).
 - (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).
 - (c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) and (4).
- (3)
 - (a) Each candidate:
 - (i) shall deposit a contribution in a separate campaign account in a financial institution; and
 - (ii) may not deposit or mingle any campaign contributions received into a personal or business account.
 - (b) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).
 - (c) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:
 - (i) no later than seven days before the day on which the municipal general election is held; and
 - (ii) no later than 30 days after the day on which the municipal general election is held.
 - (d) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement 30 days after the day on which the municipal primary election is held.
- (4) Each campaign finance statement described in Subsection (3) shall:
 - (a) except as provided in Subsection (4)(b):
 - (i) report all of the candidate's itemized and total:

- (A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and
- (B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and
- (ii) identify:
 - (A) for each contribution, the amount of the contribution and the name of the donor, if known; and
 - (B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or
- (b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.
- (c) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:
 - (i) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
 - (ii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.
- (5)
 - (a) A municipality may, by ordinance:
 - (i) provide an anonymous contribution limit less than \$50;
 - (ii) require greater disclosure of contributions or expenditures than is required in this section; and
 - (iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.
 - (b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (5)(a) if:
 - (i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and
 - (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (6).
- (6) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:
 - (a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;
 - (b) the dates when the candidate's campaign finance statement is required to be filed; and
 - (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
- (7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:
 - (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
 - (b) make the campaign finance statement filed by a candidate available for public inspection by:
 - (i)

- (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
 - (B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
 - (ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.
- (8)
- (a) If a candidate fails to timely file a campaign finance statement required under Subsection (3), the municipal clerk or recorder shall inform the appropriate election official who:
 - (i) shall:
 - (A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
 - (B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - (ii) may not count any votes for that candidate.
 - (b) Notwithstanding Subsection (8)(a), a candidate who timely files each campaign finance statement required under Subsection (3) is not disqualified if:
 - (i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and
 - (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
- (9) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.
- (10)
- (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.
 - (b) In a civil action under Subsection (10)(a), the court may award costs and attorney fees to the prevailing party.

Amended by Chapter 94, 2016 General Session

Amended by Chapter 409, 2016 General Session

10-3-209 Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

- (1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for the purposes of this section:
- (a) "Candidate" means a person who:
 - (i) files a declaration of candidacy for municipal office; or
 - (ii) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.
 - (b) "Officeholder" means a person who is elected to and currently holds a municipal office.
 - (c)
 - (i) "Personal use expenditure" means an expenditure that:
 - (A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or

- officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or
- (B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.
- (ii) "Personal use expenditure" includes:
- (A) a mortgage, rent, utility, or vehicle payment;
 - (B) a household food item or supply;
 - (C) clothing, except for clothing bearing the candidate's name or campaign slogan or logo and that is used in the candidate's campaign;
 - (D) an admission to a sporting, artistic, or recreational event or other form of entertainment;
 - (E) dues, fees, or gratuities at a country club, health club, or recreational facility;
 - (F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;
 - (G) a vacation;
 - (H) a vehicle expense;
 - (I) a meal expense;
 - (J) a travel expense;
 - (K) a payment of an administrative, civil, or criminal penalty;
 - (L) a satisfaction of a personal debt;
 - (M) a personal service, including the service of an attorney, accountant, physician, or other professional person;
 - (N) a membership fee for a professional or service organization; and
 - (O) a payment in excess of the fair market value of the item or service purchased.
- (2) As used in this section, "personal use expenditure" does not mean an expenditure made:
- (a) for a political purpose;
 - (b) for candidacy for public office;
 - (c) to fulfill a duty or activity of an officeholder;
 - (d) for a donation to a registered political party;
 - (e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (f) to return all or a portion of a contribution to a donor;
 - (g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:
 - (i)
 - (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (ii) a meal expense;
 - (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (iv) a payment for a service provided by an attorney or accountant;
 - (v) a tuition payment or registration fee for participation in a meeting or conference;
 - (vi) a gift;
 - (vii) a payment for the following items in connection with an office space:
 - (A) rent;
 - (B) utilities;
 - (C) a supply; or
 - (D) furnishing;

- (viii) a booth at a meeting or event; or
 - (ix) educational material;
 - (h) to purchase or mail informational material, a survey, or a greeting card;
 - (i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;
 - (k) to pay membership dues to a national organization whose primary purpose is to address general public policy;
 - (l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; or
 - (m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2).
- (3)
- (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).
 - (b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).
 - (c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).
- (4) A candidate or an officeholder may not use money deposited into a campaign account for:
- (a) a personal use expenditure; or
 - (b) an expenditure prohibited by law.
- (5) A municipality may enforce this section by adopting an ordinance:
- (a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and
 - (b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.
- (6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:
- (a) may require the candidate or officeholder to:
 - (i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and
 - (ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and
 - (b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.

Enacted by Chapter 247, 2015 General Session

Part 3

Membership on Governing Body, Vacancies, and Power to Vote

10-3-301 Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

- (1)
 - (a) On or before February 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:
 - (i) the municipal offices to be voted on in the municipal general election; and
 - (ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (1)(a)(i).
 - (b) The municipal clerk shall publish the notice described in Subsection (1)(a):
 - (i) on the Utah Public Notice Website established by Section 63F-1-701; and
 - (ii) in at least one of the following ways:
 - (A) at the principal office of the municipality;
 - (B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;
 - (C) in a newsletter produced by the municipality;
 - (D) on a website operated by the municipality; or
 - (E) with a utility enterprise fund customer's bill.
- (2)
 - (a) A person filing a declaration of candidacy for a municipal office shall meet the requirements of Section 20A-9-203.
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(2)(a)(i) and (b)(i) unless the date occurs on a:
 - (A) Saturday or Sunday; or
 - (B) state holiday as listed in Section 63G-1-301.
 - (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (2)(b)(i) without maintaining office hours by:
 - (A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and
 - (B) being available at that contact information from 8 a.m. to 5 p.m. on the dates described in Subsection (2)(b)(i).
- (3) Any person elected to municipal office shall be a registered voter in the municipality in which the person was elected.
- (4)
 - (a) Each elected officer of a municipality shall maintain residency within the boundaries of the municipality during the officer's term of office.
 - (b) If an elected officer of a municipality establishes a principal place of residence as provided in Section 20A-2-105 outside the municipality during the officer's term of office, the office is automatically vacant.
- (5) If an elected municipal officer is absent from the municipality any time during the officer's term of office for a continuous period of more than 60 days without the consent of the municipal legislative body, the municipal office is automatically vacant.
- (6)
 - (a) A mayor of a municipality may not also serve as the municipal recorder or treasurer.
 - (b) The recorder of a municipality may not also serve as the municipal treasurer.

Amended by Chapter 38, 2014 General Session

10-3-302 Mayoral or council vacancy of a municipality.

Mayoral or council vacancies shall be filled as provided in Section 20A-1-510.

Repealed and Re-enacted by Chapter 1, 1993 General Session

Part 5
Meetings, Procedure, and Conduct - Voting

10-3-502 Regular and special council meetings.

- (1) The council of each municipality shall:
 - (a) by ordinance prescribe the time and place for holding its regular meeting, subject to Subsection (1)(b); and
 - (b) hold a regular meeting at least once each month.
- (2)
 - (a) The mayor of a municipality or two council members may order the convening of a special meeting of the council.
 - (b) Each order convening a special meeting of the council shall:
 - (i) be entered in the minutes of the council; and
 - (ii) provide at least three hours' notice of the special meeting.
 - (c) The municipal recorder or clerk shall serve notice of the special meeting on each council member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode.
 - (d) The personal appearance by a council member at a special meeting of the council constitutes a waiver of the notice required under Subsection (2)(c).

Amended by Chapter 19, 2008 General Session

10-3-504 Quorum defined.

The number of council members necessary to constitute a quorum is:

- (1) in a municipality with a seven-member council, four;
- (2) in a municipality with a five-member council, three; and
- (3) in a municipality operating under a six-member council form of government, three, excluding the mayor.

Amended by Chapter 19, 2008 General Session

10-3-505 Compelling attendance at meetings of legislative body.

The legislative body of a municipality may compel the attendance of its own members at its meetings and provide penalties it considers necessary for the failure to comply with an exercise of the authority to compel attendance.

Amended by Chapter 237, 2003 General Session

10-3-506 How the vote is taken.

A roll call vote shall be taken and recorded for all ordinances, resolutions, and any action which would create a liability against the municipality and in any other case at the request of any member of the governing body by a "yes" or a "no" vote and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

Enacted by Chapter 48, 1977 General Session

10-3-507 Minimum vote required.

- (1) The minimum number of yes votes required to pass any ordinance or resolution, or to take any action by the council, unless otherwise prescribed by law, is a majority of the voting members of the council, regardless of absence or vacancy.
- (2)
 - (a) Any ordinance, resolution, or motion of the council having fewer favorable votes than required in this section is defeated and invalid.
 - (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a specific time by a majority vote of the council even though the majority vote is less than that required in this section.
- (3) If a vacancy exists in one or more council seats, a majority of the council members presently occupying council seats, regardless of number, may vote to fill the vacancy as provided under Section 20A-1-510.

Amended by Chapter 338, 2014 General Session

10-3-508 Reconsideration.

Any action taken by the governing body may not be reconsidered or rescinded at any special meeting unless the number of members of the governing body present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

Amended by Chapter 378, 2010 General Session

Part 6

Public Meetings, Executive Sessions, Records and Publication, Procedure

10-3-601 Business of governing body conducted only in open meeting.

All meetings of the governing body of each municipality shall be held in compliance with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 14, 2006 General Session

10-3-603 Public records.

The governing body of each municipality shall keep a journal of its proceedings. The books, records, accounts and documents of each municipality shall be kept at the office of the recorder and approved copies shall be open and available to the public during regular business hours for examination and copying. The governing body may by resolution establish reasonable charges

for providing copies of its public records to individuals, except when by law the municipality must provide the records without cost to the public.

Enacted by Chapter 48, 1977 General Session

10-3-604 Annual examination of municipal finances -- Publication of results.

At the end of each fiscal year, the governing body of each city of the first and second class shall cause a full and complete examination of all books and accounts of the city to be made by certified public accountants, and shall publish the results of the examination and a detailed and itemized statement of all receipts and disbursements of the city in a summary of their proceedings and expenses during the fiscal year. The city shall then provide printed copies to the newspapers of the city and to the city recorder who shall provide one copy of it to any person on request.

Amended by Chapter 49, 1981 General Session

10-3-605 Penalty.

Any person who shall violate any of the provisions of Section 10-3-603 or 10-3-604 without just cause shall be guilty of a class B misdemeanor.

Amended by Chapter 28, 1979 General Session

10-3-606 Rules of order and procedure.

- (1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
 - (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.
- (2)
 - (a) Subject to Subsection (2)(b), a municipal legislative body shall:
 - (i) adopt rules of order and procedure to govern a public meeting of the legislative body;
 - (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a)(i); and
 - (iii) make the rules of order and procedure described in Subsection (2)(a)(i) available to the public:
 - (A) at each meeting of the municipal legislative body; and
 - (B) on the municipality's public website, if available.
 - (b) Subsection (2)(a) does not affect a municipal legislative body's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Repealed and Re-enacted by Chapter 107, 2011 General Session

10-3-607 Expulsion of members prohibited -- Exception for disorderly conduct.

- (1) Except as provided in Subsection (2), the governing body may not expel a member of the governing body from an open public meeting or prohibit the member from attending an open public meeting.
- (2) Except as provided in Subsection (3), following a two-thirds vote of the members of the governing body, the governing body may fine or expel a member of the governing body for:
 - (a) disorderly conduct at the open public meeting;

- (b) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
 - (c) a commission of a crime during the open public meeting.
- (3) A governing body may adopt rules or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Repealed and Re-enacted by Chapter 196, 2015 General Session

10-3-608 Rules of conduct for the public.

The governing body on a two-thirds vote may expel any person who is disorderly during the meeting of the governing body. This section or any action taken by the governing body pursuant hereto does not preclude prosecution under any other provision of law.

Amended by Chapter 378, 2010 General Session

10-3-609 Action on committee reports.

Final action on any report of any committee appointed by the governing body shall be deferred to the next regular meeting of the governing body on the request of any two members, except that the council in a city of the third, fourth, or fifth class or a town may call a special meeting to consider final action.

Amended by Chapter 292, 2003 General Session

10-3-610 Requiring attendance of witnesses, production of evidence.

The governing body of each municipality may require the attendance of any person to give testimony or produce records, documents or things for inspection, copying or examination necessary or useful for the governance of the municipality. The governing body may by ordinance establish its own procedures for issuing subpoenas to require attendance and production under this section or it may issue subpoenas in its own name in the same manner as is provided in the Utah Rules of Civil Procedure.

Enacted by Chapter 48, 1977 General Session

Part 7

Municipal Ordinances, Resolutions, and Procedure

10-3-701 Legislative power exercised by ordinance.

Except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative powers through ordinances.

Enacted by Chapter 48, 1977 General Session

10-3-702 Extent of power exercised by ordinance.

The governing body may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by this act or any other provision of law. An officer of the municipality may not be convicted of a criminal offense where he relied

on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

Amended by Chapter 378, 2010 General Session

10-3-703 Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.

- (1) The governing body of each municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by both the fine and term of imprisonment.
- (2)
 - (a) Except as provided in Subsection (2)(b), the governing body may prescribe a civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301.
 - (b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

Amended by Chapter 149, 2014 General Session

10-3-703.7 Administrative proceedings.

- (1) A municipality may adopt an ordinance establishing an administrative proceeding to review and decide a violation of a civil municipal ordinance.
- (2) An ordinance adopted in accordance with Subsection (1) shall provide due process for parties participating in the administrative proceeding.

Repealed and Re-enacted by Chapter 175, 2012 General Session

10-3-704 Form of ordinance.

Any ordinance passed by the governing body, after the effective date of this act, shall contain and be in substantially the following order and form:

- (1) a number;
 - (2) a title which indicates the nature of the subject matter of the ordinance;
 - (3) a preamble which states the need or reason for the ordinance;
 - (4) an ordaining clause which states "Be it ordained by the ____ (name of the governing body and municipality)";
 - (5) the body or subject of the ordinance;
 - (6) when applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
 - (7) a statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this chapter;
 - (8) a line for the signature of the mayor or acting mayor to sign the ordinance;
 - (9) a place for the municipal recorder to attest the ordinance and fix the seal of the municipality;
- and

(10) in municipalities where the mayor may disapprove an ordinance passed by the legislative body, the ordinance shall show, that it was passed with the mayor's approval or that if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor neither approves, or disapproves an ordinance, the ordinance shall show that it became effective without the approval or disapproval of the mayor.

Amended by Chapter 378, 2010 General Session

10-3-705 Requirements as to form -- Effective date.

Ordinances passed or enacted by the governing body shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the governing body, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances which do not have an effective date shall become effective 20 days after publication or posting, or 30 days after final passage by the governing body, whichever is sooner.

Amended by Chapter 38, 1979 General Session

10-3-706 Revision of ordinances.

The governing body by resolution may authorize and direct the mayor to appoint, with the advice and consent of the governing body, one or more persons to prepare and submit to the governing body a compilation, revision or codification of municipal ordinances. The compensation for the service shall be fixed by resolution of the governing body and paid out of the municipal treasury.

Enacted by Chapter 48, 1977 General Session

10-3-707 Power to codify ordinances.

Any municipality is hereby empowered to revise, codify and compile from time to time and to publish in book, pamphlet or looseleaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced shall be presented, but with errors, inconsistencies, repetitions, and ambiguities therein eliminated.

Enacted by Chapter 48, 1977 General Session

10-3-708 Arrangement of ordinances.

The ordinances in the revision, codification and compilation shall be arranged in such order as the governing body may decide and may exclude the titles, enacting clauses, signatures of a mayor or mayor pro tempore of the governing board, attestations, and other formal parts, except the attestation of the recorder.

Enacted by Chapter 48, 1977 General Session

10-3-709 Repeal of conflicting provisions -- Title.

Such revision shall be by one ordinance embracing all ordinances of a general and permanent character preserved as changed or added to and perfected by the revision, codification and

compilation and shall be a repeal of all ordinances in conflict with the revision, codification and compilation, but all ordinances then enforced shall continue in force after the revision, codification and compilation for the purpose of all rights acquired, fines, penalties and forfeitures and liabilities incurred and actions therefor. The only title necessary for such ordinance shall be "an ordinance revising, codifying and compiling the general ordinances of the city or town of ____ (inserting the name of the municipality)."

Enacted by Chapter 48, 1977 General Session

10-3-710 Publication in book, pamphlet or looseleaf form -- State statutes.

Ordinances revised, codified, compiled and published in book, pamphlet or looseleaf form by authority of the governing body need not be printed or published in any other manner, except that the ordinance adopting the revision, codification or compilation shall be published or posted in the manner provided by law. Provisions of state law may be adopted by reference. Any changes necessary to conform those state laws with municipal ordinance shall be noted.

Enacted by Chapter 48, 1977 General Session

10-3-711 Publication and posting of ordinances.

- (1) Before an ordinance may take effect, the legislative body of each municipality adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707, 10-3-708, 10-3-709, or 10-3-710, shall:
 - (a) deposit a copy of the ordinance in the office of the municipal recorder; and
 - (b)
 - (i) publish a short summary of the ordinance at least once:
 - (A) in a newspaper published within the municipality; or
 - (B) if there is no newspaper published within the municipality, in a newspaper of general circulation within the municipality; or
 - (ii) post a complete copy of the ordinance:
 - (A) for a city of the first class, in nine public places within the city; or
 - (B) for any other municipality, in three public places within the municipality.
- (2)
 - (a) Any ordinance, code, or book, other than the state code, relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the recorder or clerk of the city or town prior to the adoption of the ordinance by the governing body.
 - (b) Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.
 - (c) The ordinance adopting the code or book shall be published in the manner provided in this section.

Amended by Chapter 202, 2004 General Session

10-3-712 Effective date.

Ordinances shall become effective 20 days after publication or posting or 30 days after final passage by the governing body, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.

Amended by Chapter 42, 1983 General Session

10-3-713 Recording, numbering, and certification of passage.

The municipal recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the governing body. The recorder shall give each ordinance a number, if the governing body has not already so done. Immediately following each ordinance, or codification of ordinances, the recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.

Enacted by Chapter 48, 1977 General Session

10-3-714 Contents, dates, publication proved under seal.

The contents of all municipal ordinances, the dates of passage, and the date of publication or posting may be proved by the certification of the municipal recorder under the seal of the municipality.

Amended by Chapter 4, 1993 General Session

10-3-715 Municipal ordinances received in evidence.

Whenever municipal ordinances are printed in book, pamphlet or looseleaf form and purport to be published by the authority of the governing body, the book, pamphlet or looseleaf shall be prima facie evidence of the contents, passage, and legal publication of such ordinances, as of the dates mentioned in the book, pamphlet, or looseleaf in all courts and administrative proceedings.

Enacted by Chapter 48, 1977 General Session

10-3-716 Fines and forfeitures -- Disposition.

All fines, penalties, and forfeitures for the violation of any ordinance, when collected, shall be paid in accordance with Section 51-4-2. A violation of this section constitutes a class C misdemeanor. The retention or use of any fine, penalty, or forfeiture by any person for personal use or benefit constitutes a class B misdemeanor, except that if the amount or amounts exceed \$1,000 the offense is a class A misdemeanor as defined in the Utah Criminal Code.

Amended by Chapter 55, 2006 General Session

10-3-717 Purpose of resolutions.

Unless otherwise required by law, the governing body may:

- (1) exercise all administrative powers by resolution including:
 - (a) establishing water and sewer rates;
 - (b) establishing charges for garbage collection and fees charged for municipal services;
 - (c) establishing personnel policies and guidelines; and

- (d) regulating the use and operation of municipal property; and
- (2) not impose a punishment, fine, or forfeiture by resolution.

Amended by Chapter 258, 2015 General Session

10-3-718 Form of resolution.

Any resolution passed by the governing body of each municipality shall be in a form and contain sections substantially similar to that prescribed for ordinances.

Enacted by Chapter 48, 1977 General Session

10-3-719 Resolutions need no publication effective date.

Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the governing body may determine, but resolutions may not become effective more than three months from the date of passage.

Enacted by Chapter 48, 1977 General Session

Part 8 Municipal Administration

10-3-801 Administrative powers in cities of the first class.

The executive and administrative powers, authority and duties in cities of the first class shall be divided into and among five departments as follows:

- (1) Department of Public Affairs and Finance;
- (2) Department of Water Supply and Waterworks;
- (3) Department of Public Safety;
- (4) Department of Streets and Public Improvements; and
- (5) Department of Parks and Public Property.

Enacted by Chapter 48, 1977 General Session

10-3-803 Officers limited to one office -- Exceptions.

In cities of the first class, the mayor, commissioners, recorder and treasurer shall administer only one office under the city government, except that the offices of city recorder and auditor may be held by one person.

Enacted by Chapter 48, 1977 General Session

10-3-805 Administrative powers in cities of the second class.

The administrative powers, authority and duties in cities of the second class shall be divided into five departments which shall be:

- (1) Department of Public Affairs and Finances.
- (2) Department of Water and Waterworks.
- (3) Department of Public Safety.
- (4) Department of Streets and Public Improvements.

(5) Department of Parks and Public Property.

Enacted by Chapter 48, 1977 General Session

10-3-818 Salaries in municipalities.

- (1) The elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing.
- (2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.
- (3)
 - (a) Notice of the time, place, and purpose of the meeting shall be published at least seven days before the meeting by publication:
 - (i) at least once in a newspaper published in the county within which the municipality is situated and generally circulated in the municipality; and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) If there is not a newspaper as described in Subsection (3)(a)(i), then notice shall be given by posting this notice in three public places in the municipality.
- (4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.
- (5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.
- (6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.

Amended by Chapter 90, 2010 General Session

10-3-819 Bonds required.

The elected officers of each municipality and the treasurer in cities of the first and second class before taking office shall execute a bond with good and sufficient sureties, payable to the municipality in such amounts as are herein provided, conditioned for the faithful performance of the duties of the respective officers and the payment of all money received by such officer according to law and the ordinances of the municipality. All other officers of any municipality may, by resolution or ordinance, be required to furnish a personal bond with good and sufficient sureties or corporate surety bond payable to the municipality in such penal sum as the resolution or ordinance may establish, conditioned for the faithful performance of the duties of their office and the payment of

all money received by such officers according to law and the ordinances of the municipality, or such officers may be included within public employee blanket bonds at such amounts as may be determined by the governing body.

Amended by Chapter 92, 1987 General Session

10-3-820 Bonds of officers in cities of the first and second class.

In cities of the first and second class, the mayor and each council member shall give a penal bond, with approved corporate surety, in the amount of not less than \$10,000 and the auditor shall give a penal bond with approved corporate surety in the sum of not less than \$20,000 conditioned for the faithful performance of the duties of their offices and payment of all money received by them according to law and the ordinances of the city.

Amended by Chapter 19, 2008 General Session

10-3-821 Bond of treasurers.

The municipal treasurer's bond, or the bond of any person who acts as municipal treasurer, may be set by resolution or ordinance in any amount, not less than that established by the state money management council.

Enacted by Chapter 48, 1977 General Session

10-3-822 Approval of bonds.

The bonds of the commissioners and of the councilmen shall be approved by the mayor and the bond of the mayor shall be approved by the commission or council at the first meeting of the governing body in January following a municipal election.

Enacted by Chapter 48, 1977 General Session

10-3-823 Premium paid by municipality.

The premium charged by a corporate surety for any bond required by this part shall be paid by the municipality.

Enacted by Chapter 48, 1977 General Session

10-3-824 Bonds of first officers after incorporation.

Whenever the inhabitants of any municipality incorporate under this act, the officers first elected or appointed, except the treasurer, shall give bonds in the penal sum of not less than \$500. The bonds required in this section shall remain in force until the passage of ordinances or resolutions by the governing body of such municipality providing for the bonds required of its officers under this act. The bond of the municipal treasurer shall be in a penal sum of not less than \$500 and may be established by an ordinance or resolution by the governing body, except that the bond of the treasurer shall be set in an amount provided by the rules and regulations of the state money management council if it has been established by the state money management council.

Enacted by Chapter 48, 1977 General Session

10-3-825 Additional bonds.

The governing body of any municipality may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers of any municipality, except as otherwise provided by law, shall be filed with the recorder, except that the bond of the recorder shall be filed with the treasurer.

Enacted by Chapter 48, 1977 General Session

10-3-826 Official neglect and misconduct class A misdemeanor -- Removal from office.

In case any municipal officer shall at any time wilfully omit to perform any duty, or wilfully and corruptly be guilty of oppression, malconduct, misfeasance, or malfeasance in office, the person is guilty of a class A misdemeanor, shall be removed from office, and is not eligible for any municipal office thereafter.

Amended by Chapter 178, 1986 General Session

10-3-827 Oaths.

All officers of any municipality, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office.

Enacted by Chapter 48, 1977 General Session

10-3-828 Oath -- Filing.

The oath of office required under this part shall be administered by any judge, notary public, or by the recorder of the municipality. Elected officials shall take their oath of office at 12:00 noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the recorder of the respective municipality.

Amended by Chapter 59, 1990 General Session

10-3-829 Acts of officials not voided.

No official act of any municipal officer shall be invalid for the reason that he failed to take the oath of office.

Enacted by Chapter 48, 1977 General Session

Part 9

Appointed Officials and Their Duties

10-3-902 City engineer required to be licensed.

Each person appointed as city engineer shall be a registered professional engineer under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

Amended by Chapter 19, 2008 General Session

10-3-903 City engineer -- Custodian of records of public improvements.

The city engineer's office in cities of the first and the second class shall be an office of record for all maps, plans, plats, profiles, drawings, final estimates, specifications and contracts which in any way relate to the public improvements and engineering affairs of the city. The city engineer shall be custodian of all drawings and documents above mentioned.

Enacted by Chapter 48, 1977 General Session

10-3-904 Books and supplies -- Recording, filing and inspection.

The city engineer's office shall be supplied with all necessary books, cases and supplies for recording and filing as required. The city engineer shall record and file all drawings and documents pertaining to public lands and improvements. Those made in his office shall be placed on record as soon as completed and shall then be open for public inspections, and any person copying the same or taking notes therefrom may do so in pencil only. He shall keep the records and files in good condition and turn the same over to his successor in office. He shall allow no alteration, mutilation or changes to be made in any matter of record, and shall be held strictly accountable for the same.

Enacted by Chapter 48, 1977 General Session

10-3-905 Fees to be paid in advance.

The city engineer may not record any drawings or instruments, or file any papers or notices, or furnish any copies, or render any service connected with his office, until the fees for the same are paid or tendered as prescribed by law or ordinance.

Amended by Chapter 378, 2010 General Session

10-3-906 Seal.

The city engineer shall be provided with a seal by the city for his use, containing the words "____ City, Utah, Engineering Department." The seal shall be affixed to every certification approval.

Enacted by Chapter 48, 1977 General Session

10-3-907 Recordation not to interfere with other recordation.

The recording or filing of any drawing or instrument in the city engineer's office may not interfere or conflict in any way with the recording or filing of the same in other offices of record.

Amended by Chapter 378, 2010 General Session

10-3-908 Noncompliance a misdemeanor.

Any city engineer who fails to comply with Sections 10-3-903 through 10-3-907 is guilty of a misdemeanor.

Enacted by Chapter 48, 1977 General Session

10-3-909 Police and fire departments in cities of the first and second class.

Each city of the first or the second class shall provide police services and may create, support, maintain, and control a fire department in the city.

Amended by Chapter 79, 1998 General Session

10-3-910 Heads of departments and subordinate officers.

The administration of the police and fire departments shall consist of a chief of the department and such officers, members, employees and agents as the board of commissioners may by ordinance prescribe, and the board of commissioners shall appoint the heads of such departments.

Enacted by Chapter 48, 1977 General Session

10-3-912 Chief of department may suspend subordinates.

- (1) The chief of each department may at any time suspend any subordinate officers, members, employees, or agents employed therein when in his judgment the good of the service demands it, and during the time of suspension, the person suspended is not entitled to any salary or compensation whatsoever.
- (2) Any suspension of employees in the classified civil service which exceeds three days or 24 working hours is subject to an appeal to the civil service commission as provided in Section 10-3-1012.

Amended by Chapter 378, 2010 General Session

10-3-913 Authority of chief of police.

- (1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:
 - (a) suppress riots, disturbances, and breaches of the peace;
 - (b) apprehend all persons violating state laws or city ordinances;
 - (c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons; and
 - (d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions.
- (2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.
- (3) The chief of police shall, on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

Amended by Chapter 219, 2002 General Session

10-3-914 Police officers -- Authority.

- (1) Within the boundaries of the municipality, police officers have the same authority as deputy sheriffs, including at all times the authority to preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, remove nuisances existing in the public streets, roads, and highways, enforce every law relating to the suppression of offenses, and perform all duties required of them by ordinance or resolution.
- (2) This section is not a limitation of a police officer's statewide authority as otherwise provided by law.

Amended by Chapter 44, 1990 General Session

10-3-915 Rights to arrest without warrant.

The members of the police force shall have the power and authority, without process, to arrest and take into custody any person who shall commit or threaten or attempt to commit in the presence of the officer, or within his view, any breach of the peace, or any offense directly prohibited by the laws of this state or by ordinance.

Enacted by Chapter 48, 1977 General Session

10-3-916 Appointment of recorder and treasurer in a city of third, fourth, or fifth class or a town -- Vacancies in office.

- (1) In each city of the third, fourth, or fifth class and in each town, on or before the first Monday in February following a municipal election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and treasurer.
- (2) The city recorder is ex officio the city auditor and shall perform the duties of that office.
- (3) The mayor, with the advice and consent of the council, may also appoint and fill vacancies in all offices provided for by law or ordinance.
- (4) All appointed officers shall continue in office until their successors are appointed and qualified.

Amended by Chapter 292, 2003 General Session

10-3-917 Engineer in a city of the third, fourth, or fifth class or town.

The governing body of a city of the third, fourth, or fifth class or a town may by ordinance establish the office of municipal engineer and prescribe the duties and obligations for that office which are consistent with the duties and obligations of the city engineer in cities of the first and second class. If a city of the third, fourth, or fifth class or town uses the engineer employed by the county in which the municipality is located, the municipality may, by ordinance prescribe for its municipal engineer either the duties of a municipal engineer or, if different, the duties of the county engineer, or a combination of duties.

Amended by Chapter 292, 2003 General Session

10-3-918 Chief of police or marshal in a city of the third, fourth, or fifth class or town.

The chief of police or marshal in each city of the third, fourth, or fifth class or town:

- (1) shall:
 - (a) exercise and perform the duties that are prescribed by the legislative body;
 - (b) be under the direction, control, and supervision of the person or body that appointed the chief or marshal; and
 - (c) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and
- (2) may, with the consent of the person or body that appointed the chief or marshal, appoint assistants to the chief of police or marshal.

Amended by Chapter 292, 2003 General Session

10-3-919 Powers, duties, and obligations of police chief, marshal, and their assistants in a city of the third, fourth, or fifth class or town.

The chief of police, marshals, and their assistants in a city of the third, fourth, or fifth class or town shall have all of the powers, rights, and duties respectively conferred on such officers in Sections 10-3-913 through 10-3-915.

Amended by Chapter 292, 2003 General Session

10-3-920 Bail commissioner -- Powers and duties.

- (1) With the advice and consent of the city council and the board of commissioners in other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the officers and members of the police department of the city one or more discreet persons as a bail commissioner.
- (2) A bail commissioner shall have authority to fix and receive bail for a person arrested within the corporate limits of the city in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for city ordinances not contained in the schedule for:
 - (a) misdemeanors under the laws of the state; or
 - (b) violation of the city ordinances.
- (3) A person who has been ordered by a bail commissioner to give bail may deposit with the bail commissioner the amount:
 - (a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or
 - (b) by a bond issued by a licensed bail bond surety.
- (4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.
- (5) The court may review the amount of bail ordered by a bail commissioner and modify the amount of bail required for good cause.

Amended by Chapter 99, 2015 General Session

10-3-921 Fines -- Collection by bail commissioner -- Disposition.

- (1) In addition to the duty of fixing bail, a bail commissioner shall have power to collect and receipt money tendered in payment of the fine of a person serving sentence in default of the payment of such fine, when the court is closed.
- (2) Money collected by a bail commissioner shall be delivered to the court that issued the commitment order within three days of receipt of the money.

Amended by Chapter 283, 1990 General Session

10-3-922 Term of bail commissioners -- Salary -- Bond and oath.

- (1) A bail commissioner appointed under this part shall:
 - (a) serve at the pleasure of the governing body or mayor that appoints him; and
 - (b) receive no compensation as a bail commissioner.
- (2) Before beginning his duties as a bail commissioner, he shall:
 - (a) take and subscribe an oath to faithfully and impartially discharge the duties of his office;
 - (b) give a \$2,500 bond to the city wherein he is appointed, with two good and sufficient individual sureties or with a single corporate surety, that is approved by the governing body or mayor appointing him for the faithful performance of his duties as a bail commissioner; and

- (c) account for and turn over to the clerk of the appropriate court within three days receipt of all money, bonds, property, and records coming into his hands as a bail commissioner.
- (3) At the expiration of his term of office, the bail commissioner shall surrender and turn over all funds, bonds, property, papers and records then in his hands pertaining to his office.
- (4) Suit upon any bond issued under this section may be brought by any county, city, or person injured as a result of a bail commissioner's action.

Amended by Chapter 283, 1990 General Session

10-3-928 Attorney duties -- Deputy public prosecutor.

In cities with a city attorney, the city attorney:

- (1) may prosecute violations of city ordinances;
- (2) may prosecute, under state law, infractions and misdemeanors occurring within the boundaries of the municipality;
- (3) has the same powers in respect to violations as are exercised by a county attorney or district attorney, except that a city attorney's authority to grant immunity shall be limited to:
 - (a) granting transactional immunity for violations of city ordinances; and
 - (b) granting transactional immunity under state law for infractions and misdemeanors occurring within the boundaries of the municipality;
- (4) shall represent the interests of the state or the municipality in the appeal of any matter prosecuted in any trial court by the city attorney;
- (5) may cooperate with the Office of the Attorney General during investigations, including those described in Subsection 67-5-18(3)(f); and
- (6) may designate a city attorney from another municipality or a public prosecutor to prosecute a matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest regarding the matter being prosecuted.

Amended by Chapter 75, 2011 General Session

Part 10

Civil Service Commission

10-3-1001 Subordinates in police, health, and fire departments to be appointed from list.

Subject to the rules and regulations of the civil service commission, the head of the police and fire departments of each first and second class city that establishes a civil service commission and the health officer in each first class city that establishes a civil service commission shall, from the classified civil service list furnished by the civil service commission and by and with the advice and consent of the city legislative body:

- (1) appoint all subordinate officers, employees, members, or agents in the department; and
- (2) fill vacancies in the positions listed in Subsection (1).

Amended by Chapter 178, 2001 General Session

10-3-1002 Classified civil service -- Places of employment constituting classified civil service -- Appointments to and from classified civil service.

- (1) The classified civil service shall consist of all places of employment now existing or hereafter created in or under the police department and the fire department of each first or second class city that establishes a civil service commission and the health department in each first class city that establishes a civil service commission, except the head of the departments, deputy chiefs of the police and fire departments, and assistant chiefs of the police department and fire department in cities of the first and second class, and the members of the board of health of the departments.
- (2) No appointments to any of the places of employment constituting the classified civil service in the departments shall be made except according to law and under the rules and regulations of the civil service commission.
- (3) The head of each of the departments may, and the deputy chiefs of the police and fire departments and assistant chiefs of the police and fire departments shall, be appointed from the classified civil service, and upon the expiration of the term or upon the appointment of a successor shall be returned thereto.

Amended by Chapter 321, 2012 General Session

10-3-1003 Civil service commission -- Number, term, vacancies.

- (1)
 - (a) A city of the first or second class may establish a civil service commission under this part.
 - (b) A city that establishes a civil service commission under this part may dissolve the civil service commission.
- (2) Each civil service commission under this part shall consist of three members appointed by the city legislative body.
- (3)
 - (a) The term of office of commission members shall be six years, but members shall be appointed so that the term of office of one member shall expire on the 30th day of June of each even-numbered year.
 - (b) If a vacancy occurs in the civil service commission, it shall be filled by appointment by the city legislative body for the unexpired term.

Amended by Chapter 204, 2006 General Session

10-3-1004 Qualifications of commissioners -- Salary -- Removal.

Not more than two members of the civil service commission shall at any one time be of the same political party. No member of the civil service commission shall during his tenure of office hold any other public office, or be a candidate for any other public office. Each member shall receive \$25 for each meeting of the commission which he shall attend, but may not receive more than \$100 in any one month. In case of misconduct, inability or willful neglect in the performance of the duties of the office by any member, the member may be removed from office by the board of city commissioners by a majority vote of the entire membership, but the member shall, if he so desires, have opportunity to be heard in defense.

Amended by Chapter 378, 2010 General Session

10-3-1005 Organization of commission -- Secretary -- Offices.

The civil service commission shall organize by selecting one of its members chairman, and shall appoint as secretary one of the available officers or employees of the city, who shall act and

serve without additional compensation. The secretary shall keep a record of all meetings of the civil service commission and of its work and shall perform such other services as the commission may require, and shall have the custody of the books and records of the commission. The board of city commissioners shall provide suitable accommodations and equipment to enable the civil service commission to attend to its business.

Enacted by Chapter 48, 1977 General Session

10-3-1006 Rules and regulations -- Printing and distribution.

The civil service commission shall make all necessary rules and regulations to carry out the purposes of this part and for examinations, appointments and promotions. All rules and regulations shall be printed by the civil service commission for distribution.

Enacted by Chapter 48, 1977 General Session

10-3-1007 Examinations.

All applicants for employment in the classified civil service shall be subject to examination, which shall be public, competitive and free. Examinations shall be held at such times and places as the civil service commission shall from time to time determine, and shall be for the purpose of determining the qualifications of applicants for positions. Examinations shall be practical and shall fairly test the fitness in every respect of the persons examined to discharge the duties of the positions to which they seek to be appointed, and shall include tests of physical qualifications and health.

Enacted by Chapter 48, 1977 General Session

10-3-1008 Appointments from civil service list -- Probation period.

In all cases the appointing power shall notify the civil service commission of each separate position to be filled, and shall fill such place by the appointment of one of the persons certified by the commission therefor. Such appointment shall be on probation, and of a character and for a period to be prescribed by the civil service commission.

Enacted by Chapter 48, 1977 General Session

10-3-1009 Certification of applicants for position -- Number -- Eligible lists, removal.

- (1) If a position in the classified civil service is to be filled, the civil service commission shall as soon as possible certify to the appointing power the names of:
 - (a) 10 persons, if the position to be filled is entry level; or
 - (b) five persons, if the position to be filled is other than entry level.
- (2) Persons certified under Subsection (1) shall have the highest standing in the eligible list, but a lesser number may be certified if the required number is not on the eligible list.
- (3) If more than one position is available in the same department, the civil service commission shall also certify to the appointing power one additional name for each additional position to be filled.
- (4)
 - (a) All persons not appointed shall be restored to their relative positions on the eligible list.
 - (b) All persons who have been on the eligible list for two years without appointment shall be removed from the list and may be returned to it only upon regular examination.

Amended by Chapter 23, 1998 General Session

10-3-1010 Promotions -- Basis -- Certification of applicants.

The civil service commission shall provide for promotion in the classified civil service on the basis of ascertained merit, seniority in service and standing obtained by competitive examination, and shall provide, in all cases where practicable, that vacancies shall be filled by promotion from the members of the next lower rank as submit themselves for the examination and promotion. The civil service commission shall certify to the appointing power the names of not more than five applicants having the highest rating for each promotion.

Amended by Chapter 29, 1983 General Session

10-3-1011 Temporary employees.

The head of each department, with the advice and consent of the board of city commissioners, may employ any person for temporary work only, without making the appointment from the certified list, but the appointment may not be longer than one month in the same calendar year, and under no circumstances shall the temporary employee be appointed to a permanent position unless he shall have been duly certified by the civil service commission as in other cases.

Amended by Chapter 378, 2010 General Session

10-3-1012 Suspension or discharge by department head -- Appeal to commission -- Hearing and decision.

- (1) All persons in the classified civil service may be suspended as provided in Section 10-3-912, or removed from office or employment by the head of the department for misconduct, incompetency, failure to perform duties, or failure to observe properly the rules of the department, but subject to appeal by the suspended or discharged person to the civil service commission.
- (2) Any person suspended or discharged may, within five days from the issuance by the head of the department of the order of suspension or discharge, appeal to the civil service commission, which shall fully hear and determine the matter.
- (3) The suspended or discharged person shall be entitled to appear in person and to have counsel and a public hearing.
- (4) The finding and decision of the civil service commission upon the hearing shall be certified to the head of the department from whose order the appeal is taken, and shall be final and immediately enforced by the head.

Amended by Chapter 178, 2001 General Session

10-3-1012.5 Appeal to Court of Appeals -- Scope of review.

Any final action or order of the commission may be appealed to the Court of Appeals for review. The notice of appeal shall be filed within 30 days of the issuance of the final action or order of the commission. The review by Court of Appeals shall be on the record of the commission and shall be for the purpose of determining if the commission has abused its discretion or exceeded its authority.

Amended by Chapter 378, 2010 General Session

10-3-1013 Annual and special reports by commission.

The civil service commission shall in December of each year make an annual report to the board of city commissioners and shall make as many special reports as the board of city commissioners shall request.

Enacted by Chapter 48, 1977 General Session

Part 11 Personnel Rules and Benefits

10-3-1103 Sickness, disability and death benefits.

- (1) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.
- (2) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.

Enacted by Chapter 48, 1977 General Session

10-3-1104 Library personnel -- Monthly wage deductions and matching sums -- Time of inclusion.

- (1) The librarians, assistants and employees of any public library may, at the discretion of the board of directors of the library, be included within and participate in the pension, retirement, sickness, disability and death benefit system established under Section 10-3-1103. In the event the librarian, assistants and employees of the municipality are included within and participate in the system, there shall be deducted from the monthly wage or salary of the librarian, assistants and employees and paid into the system, a percentage of their wage or salary equal to the percentage of the monthly wage or salary of other employees of the municipality which is paid into the system. Also there shall be paid monthly into the system from the funds of the library a further sum equal to the total amount deducted monthly from the wage or salary of the librarian, assistants and employees and paid into the retirement system.
- (2) Where the election by the board of directors of any library for inclusion of its librarian, assistants and employees within the system of any municipality is subsequent to the establishment of the system, the inclusion may begin as of the date of the establishment of the system or as of the date of the election as shall be determined by the board of directors. If inclusion is as of the date of the establishment of the system, there shall be paid into the system in addition to the subsequent monthly wage deductions and matching sums, a sum equal to the aggregate of monthly payroll deductions and matching sums that would have accrued during the period beginning with the establishment of the system and ending with the election had the librarian, assistants and employees been included within the system from its establishment.

Enacted by Chapter 48, 1977 General Session

10-3-1105 Municipal employees -- Duration and termination of employment -- Exceptions.

- (1)
 - (a) Except as provided in Subsection (1)(b) or (2), each employee of a municipality shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration only as provided in Section 10-3-1106.
 - (b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff or reorganization.
- (2) Subsection (1)(a) does not apply to:
 - (a) subject to Subsection (3), a person appointed by the mayor, city manager, or other person or body with the power to appoint in the municipality if:
 - (i) the appointment is made in writing;
 - (ii) the person's written job description identifies the person's position as exempt from the protections described in Subsection (1)(a); and
 - (iii) the position is described in an ordinance as exempt from the protections described in Subsection (1)(a);
 - (b) a member of the municipality's police department or fire department who is a member of the classified civil service in a first or second class city;
 - (c) a person who holds a position described in Subsections (2)(c)(i) through (xii) or an equivalent position designated in a municipal ordinance or personnel policy:
 - (i) a police chief of the municipality;
 - (ii) a deputy or assistant police chief of the municipality;
 - (iii) a fire chief of the municipality;
 - (iv) a deputy or assistant fire chief of the municipality;
 - (v) a head of a municipal department or division;
 - (vi) a deputy of a head of a municipal department or division;
 - (vii) a superintendent;
 - (viii) a probationary employee of the municipality;
 - (ix) a part-time employee of the municipality, including paid call firefighters;
 - (x) a seasonal or temporary employee of the municipality;
 - (xi) a person who works in the office of an elected official; or
 - (xii) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department;
 - (d) an individual appointed to a position under Part 9, Appointed Officials and Their Duties, including:
 - (i) the city engineer;
 - (ii) the city recorder;
 - (iii) the city treasurer; or
 - (iv) the city attorney; or
 - (e) an employee who has:
 - (i) acknowledged in writing that the employee's employment status is appointed or at-will; or
 - (ii) voluntarily waived the procedures required by Section 10-3-1106.
- (3) In addition to the persons described in Subsections (2)(b) through (e), a municipality may appoint up to 5% of the municipality's workforce in accordance with Subsection (2)(a).
- (4) Nothing in this section or Section 10-3-1106 may be construed to limit a municipality's ability to define cause for an employee termination or reduction in force.

Amended by Chapter 321, 2012 General Session

10-3-1106 Discharge, suspension without pay, or involuntary transfer -- Appeals -- Board -- Procedure.

- (1) An employee to which Section 10-3-1105 applies may not be discharged, suspended without pay, or involuntarily transferred to a position with less remuneration:
 - (a) because of the employee's politics or religious belief; or
 - (b) incident to, or through changes, either in the elective officers, governing body, or heads of departments.
- (2)
 - (a) If an employee other than an employee described in Subsection 10-3-1105(2) is discharged, suspended for more than two days without pay, or involuntarily transferred from one position to another with less remuneration for any disciplinary reason, the employee may, subject to Subsection (2)(b), appeal the final decision to discharge, suspend without pay, or involuntarily transfer to an appeal board or hearing officer established under Subsection (7).
 - (b) If the municipality provides an internal grievance procedure, the employee shall exhaust the employee's rights under that grievance procedure before appealing to the appeal board or hearing officer.
- (3)
 - (a) Each appeal under Subsection (2) shall be taken by filing written notice of the appeal with the municipal recorder in accordance with procedures established by a municipality within 10 calendar days after:
 - (i) if the municipality provides an internal grievance procedure, the employee receives notice of the final disposition of the municipality's internal grievance procedure; or
 - (ii) if the municipality does not provide an internal grievance procedure, the discharge, suspension, or involuntary transfer.
 - (b)
 - (i) Upon the filing of an appeal under Subsection (3)(a), the municipal recorder shall refer a copy of a properly filed appeal to the appeal board or hearing officer described in Subsection (7).
 - (ii) Upon receipt of the referral from the municipal recorder, the appeal board or hearing officer shall schedule a hearing to take and receive evidence and fully hear and determine the matter which relates to the reason for the discharge, suspension, or transfer.
- (4)
 - (a) An employee who is the subject of the discharge, suspension, or transfer may:
 - (i) appear in person and be represented by counsel;
 - (ii) have a hearing open to the public;
 - (iii) confront the witness whose testimony is to be considered; and
 - (iv) examine the evidence to be considered by the appeal board.
 - (b) An employee or the municipality may request the hearing described in Subsection (4)(a)(ii).
- (5)
 - (a)
 - (i) A decision of the appeal board shall be by secret ballot.
 - (ii) The appeal board or the hearing officer shall certify a decision by the appeal board or hearing officer, respectively, with the recorder no later than 15 days after the day on which the hearing is held, except as provided in Subsection (5)(a)(iii).

- (iii) For good cause, the appeal board or hearing officer may extend the 15-day period under Subsection (5)(a)(ii) to a maximum of 60 calendar days, if the employee and municipality both consent.
- (b) If the appeal board or hearing officer finds in favor of the employee, the appeal board or hearing officer shall provide that the employee shall receive:
 - (i) the employee's salary for the period of time during which the employee is discharged or suspended without pay less any amounts the employee earned from other employment during this period of time; or
 - (ii) any deficiency in salary for the period during which the employee was transferred to a position of less remuneration.
- (6)
 - (a) A final action or order of the appeal board or hearing officer may be reviewed by the Court of Appeals by filing with that court a petition for review.
 - (b) A petition under Subsection (6)(a) shall be filed within 30 days after the issuance of the final action or order of the appeal board or hearing officer.
 - (c) The Court of Appeals' review shall be:
 - (i) on the record of the appeal board or hearing officer; and
 - (ii) for the purpose of determining if the appeal board or hearing officer abused its discretion or exceeded its authority.
- (7)
 - (a) The method and manner of choosing a hearing officer or the members of the appeal board, the number of members, the designation of a hearing officer's or appeal board member's term of office, and the procedure for conducting an appeal and the standard of review shall be prescribed by the governing body of each municipality by ordinance.
 - (b) For a municipality operating under a form of government other than a council-mayor form under Chapter 3b, Part 2, Council-Mayor Form of Municipal Government, an ordinance adopted under Subsection (7)(a) may provide that the governing body of the municipality shall serve as the appeal board.
- (8) This section does not apply to an employee:
 - (a) described in Subsection 10-3-1105(2); or
 - (b) discharged or transferred to a position with less remuneration if the discharge or transfer is the result of a layoff, reorganization, or other non-disciplinary reason.

Amended by Chapter 321, 2012 General Session

10-3-1107 Cost of living adjustment -- Price index used.

- (1) The governing body of each municipality may, in their discretion, adopt a plan to allow any person who qualifies under this part to receive a cost of living adjustment in that person's monthly retirement allowance. The adjustment allowed shall be a percentage, not to exceed 100%, of the sum as would restore the full purchasing power of each person's original unmodified pension allowance as it was in the calendar year in which the retirement giving rise to the pension occurred.
- (2) The amount necessary to restore the full purchasing power of the original unmodified pension allowance shall be computed from the consumers price index published by the United States Bureau of Labor Statistics.
- (3) Adjustments may be effective as of the date of this act or at any subsequent date set by the governing body. A municipality may choose to pay any per cent to the maximum amount provided that such percentage be paid to all qualified persons equally.

Amended by Chapter 4, 1993 General Session

10-3-1108 Political activity of municipal officer or employee.

- (1) For purposes of this section, "hours of employment" means occurring at a time when an officer or employee is acting within the course and scope of employment, but excludes a lunch break afforded to the officer or employee.
- (2) Except as otherwise provided by federal law:
 - (a) the partisan political activity, political opinion, or political affiliation of an applicant for a position with a municipality may not provide a basis for denying employment to the applicant;
 - (b) an officer or employee's partisan political activity, political opinion, or political affiliation may not provide the basis for the officer or employee's employment, promotion, disciplinary action, demotion, or dismissal;
 - (c) a municipal officer or employee may not engage in political campaigning or solicit political contributions during hours of employment;
 - (d) a municipal officer or employee may not use municipal equipment while engaged in political activity;
 - (e) a municipal officer or employee may not directly or indirectly coerce, command, or advise another municipal officer or employee to pay, lend, or contribute part of the officer or employee's salary or compensation, or anything else of value to a political party, committee, organization, agency, or person for political purposes; and
 - (f) a municipal officer or employee may not attempt to make another officer or employee's personnel status dependent on the officer or employee's support or lack of support of a political party, affiliation, opinion, committee, organization, agency, or person engaged in political activity.
- (3) A municipal employee who has filed a declaration of candidacy may:
 - (a) be given a leave of absence for the period between the primary election and the general election; and
 - (b) use any vacation or other leave available to engage in campaign activities.
- (4) If a municipal officer or employee is elected to a public office, the employee may:
 - (a) be given a leave of absence without pay for the time during which the employee receives compensation for service in the public office; and
 - (b) use any vacation or other leave available to serve in the public office.
- (5) Neither the filing of a declaration of candidacy nor a leave of absence under this section may be used as the basis for an adverse employment action, including discipline and termination, against the employee.
- (6) Nothing in this section may be construed to:
 - (a) prohibit a municipal officer or employee's voluntary contribution to a party or candidate of the officer or employee's choice; or
 - (b) permit a municipal officer or employee's partisan political activity that is prohibited under federal law.

Enacted by Chapter 79, 2000 General Session

10-3-1109 Compliance with Labor Code requirements.

Each municipality shall comply with the requirements of Section 34-32-1.1.

Enacted by Chapter 284, 2003 General Session

10-3-1110 Exemption from state licensure by Division of Real Estate.

In accordance with Section 61-2f-202, an employee of a municipality is exempt from licensure under Title 61, Chapter 2f, Real Estate Licensing and Practices Act:

- (1) when engaging in an act on behalf of the municipality in accordance with:
 - (a) this title; or
 - (b) Title 11, Cities, Counties, and Local Taxing Units; and
- (2) if the act described in Subsection (1) is related to one or more of the following:
 - (a) acquiring real estate, including by eminent domain;
 - (b) disposing of real estate;
 - (c) providing services that constitute property management, as defined in Section 61-2f-102; or
 - (d) leasing real estate.

Amended by Chapter 379, 2010 General Session

Part 13

Municipal Officers' and Employees' Ethics Act

10-3-1301 Short title.

This part is known as the "Municipal Officers' and Employees' Ethics Act."

Amended by Chapter 147, 1989 General Session

10-3-1302 Purpose.

- (1) The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.
- (2) In a metro township, as defined in Section 10-2a-403, the provisions of this part may not be applied to an appointed officer as that term is defined in Section 17-16a-3 or a county employee who is required by law to provide services to the metro township.

Amended by Chapter 352, 2015 General Session

10-3-1303 Definitions.

As used in this part:

- (1) "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city or with a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality.
- (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

- (3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (5) "Elected officer" means a person:
 - (a) elected or appointed to the office of mayor, commissioner, or council member; or
 - (b) who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.
- (6) "Improper disclosure" means disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.
- (7) "Municipal employee" means a person who is not an elected or appointed officer who is employed on a full- or part-time basis by a municipality or by a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.
- (8) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.
- (9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Amended by Chapter 350, 2016 General Session

10-3-1304 Use of office for personal benefit prohibited.

- (1) As used in this section, "economic benefit tantamount to a gift" includes:
 - (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
 - (b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.
- (2) Except as provided in Subsection (4), it is an offense for an elected or appointed officer or municipal employee to:
 - (a) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or employee's official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for the officer or employee or for others;
 - (b) use or attempt to use the officer's or employee's official position to:
 - (i) further substantially the officer's or employee's personal economic interest; or
 - (ii) secure special privileges for the officer or employee or for others; or
 - (c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:
 - (i) would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
 - (ii) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

- (3) Subsection (2)(c) does not apply to:
 - (a) an occasional nonpecuniary gift having a value of less than \$50;
 - (b) an award publicly presented in recognition of public services;
 - (c) any bona fide loan made in the ordinary course of business; or
 - (d) a political campaign contribution.
- (4) This section does not apply to an elected or appointed officer or municipal employee who engages in conduct that constitutes a violation of this section to the extent that the elected or appointed officer or municipal employee is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 445, 2013 General Session

10-3-1305 Compensation for assistance in transaction involving municipality -- Public disclosure and filing required.

- (1) As used in this section, "municipal body" means any public board, commission, committee, or other public group organized to make public policy decisions or to advise persons who make public policy decisions.
- (2) Except as provided in Subsection (6), it is an offense for an elected officer, or an appointed officer, who is a member of a public body to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality in which the member is an officer unless the member:
 - (a) files with the mayor a sworn statement giving the information required by this section; and
 - (b) discloses the information required by Subsection (5) in an open meeting to the members of the body of which the officer is a member immediately before the discussion.
- (3) It is an offense for an appointed officer who is not a member of a public body or a municipal employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality by which the person is employed unless the officer or employee:
 - (a) files with the mayor a sworn statement giving the information required by this section; and
 - (b) discloses the information required by Subsection (5) to:
 - (i) the officer or employee's immediate supervisor; and
 - (ii) any other municipal officer or employee who may rely upon the employee's representations in evaluating or approving the transaction.
- (4)
 - (a) The officer or employee shall file the statement required to be filed by this section 10 days before the date of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted or 10 days before the receipt of compensation by the officer or employee, whichever is earlier.
 - (b) The statement is public information and shall be available for examination by the public.
- (5) The statement and disclosure shall contain:
 - (a) the name and address of the officer or municipal employee;
 - (b) the name and address of the person or business entity being or to be assisted or in which the appointed or elected official or municipal employee has a substantial interest; and
 - (c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.
- (6) This section does not apply to an elected officer, or an appointed officer, who is a member of a public body and who engages in conduct that constitutes a violation of this section to the extent

that the elected officer or appointed officer is chargeable, for the same conduct, under Section 76-8-105.

Amended by Chapter 445, 2013 General Session

10-3-1306 Interest in business entity regulated by municipality -- Disclosure statement required.

- (1) Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the municipality in which he is an elected or appointed officer or municipal employee shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the municipality, and again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.
- (2) The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the members of the governing body, or may provide to the members of the governing body copies of the disclosure statement within 30 days after the statement is received by him.
- (3) This section does not apply to instances where the value of the interest does not exceed \$2,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

Amended by Chapter 378, 2010 General Session

10-3-1307 Interest in business entity doing business with municipality -- Disclosure.

- (1) Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which he is an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.
- (2) The disclosure statement shall be entered in the minutes of the meeting.
- (3) Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in the manner required by Sections 10-3-1305 and 10-3-1306.

Amended by Chapter 147, 1989 General Session

10-3-1308 Investment creating conflict of interest with duties -- Disclosure.

Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 10-3-1306.

Amended by Chapter 147, 1989 General Session

10-3-1309 Inducing officer or employee to violate part prohibited.

It is a class A misdemeanor for any person to induce or seek to induce any appointed or elected officer or municipal employee to violate any of the provisions of this part.

Amended by Chapter 241, 1991 General Session

10-3-1310 Penalties for violation -- Dismissal from employment or removal from office.

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part, with the exception of Sections 10-3-1306, 10-3-1307, 10-3-1308, and 10-3-1309, shall be dismissed from employment or removed from office and is guilty of:

- (1) a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
- (2) a felony of the third degree if:
 - (a) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or
 - (b) the elected or appointed officer or municipal employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;
- (3) a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or
- (4) a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Amended by Chapter 147, 1989 General Session

10-3-1311 Municipal ethics commission -- Complaints charging violations.

- (1) A municipality may establish by ordinance an ethics commission to review a complaint against an officer or employee subject to this part for a violation of a provision of this part.
- (2)
 - (a) A person filing a complaint for a violation of this part shall file the complaint:
 - (i) with the municipal ethics commission, if a municipality has established a municipal ethics commission in accordance with Subsection (1); or
 - (ii) with the Political Subdivisions Ethics Review Commission in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission, if the municipality has not established a municipal ethics commission.
 - (b) A municipality that receives a complaint described in Subsection (2)(a) may:
 - (i) accept the complaint if the municipality has established a municipal ethics commission in accordance with Subsection (1); or
 - (ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section 11-49-201:
 - (A) regardless of whether the municipality has established a municipal ethics commission; or
 - (B) if the municipality has not established a municipal ethics commission.
- (3) If the alleged ethics complaint is against a person who is a member of the municipal ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions Ethics Review Commission.

Amended by Chapter 202, 2012 General Session

10-3-1312 Violation of disclosure requirements -- Penalties -- Rescission of prohibited transaction.

If any transaction is entered into in connection with a violation of Section 10-3-1305, 10-3-1306, 10-3-1307, or 10-3-1308, the municipality:

- (1) shall dismiss or remove the appointed or elected officer or municipal employee who knowingly and intentionally violates this part from employment or office; and
- (2) may rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the municipality.

Amended by Chapter 147, 1989 General Session